FORM EXEMPT UNDER 44 U.S.C. (512)

INTERNET FORM NLRB-501

UNITED STA IS OF AMERICA NATIONAL LABOI RELATIONS BOARD CHARGE AG/ NST EMPLOYER

DO NOT WRITE IN THIS SPACE	
Case	Date Filed
01~CA~063309	08/24/11

INSTRUCTIONS:	01-CH-003307
File an original with NLRE Regional Director for th	region in which the alleged untair labor practice occurred or is occurring.

EMPLOYER AGAINST WHOM CHARGE IS BROUGHT a. Name of Employer Harvard Univer ity f. Fax No. d. Address (Street, city, state, and ZIP code) e. Employer Representative bill-murphy@larvard.edu Massachusetts, all. William Murphy Cambride MA 02 38

1. Type of Establishment fectory, mine, whole eler, etc.) j. Identify principal product or service k. The above-named employer has engaged and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair lail or practices are practices affecting commerce, within the meaning of the Act, or those untair labor practices are unfair practices affecting commerce within the meaning of the Act and the Post Reorganization Act. 2. Basis of the Charge (set forth a clear and in noise statement of the facts constituting the alleged unfair labor practices) Within the las six months, the above-named employer has inclaterally reduced bargaining unit members lours. HULTW/AFSEME local 3650 (6), (b) ( 1c Cell No.

4d, Fax No.

5 Full name of national or international labor regardation of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor American Federation of County on Musicipal Englosecs

Offico, if any, Cell No. FEX No.

HARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 100 I) PRIVACY ACT STATEMENT

Solicitation of the information on this form is author ed by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is 13 assist the National Labor Relations Board (NLRB) in proc.

In Na



REGION 1 10 CAUSEWAY ST RM 601 BOSTON, MA 02222-1072

Agency Website: <u>www.nlrb.gov</u> Telephone: (617)565-6700 Fax: (617)565-6725

August 25, 2011

WILLIAM MURPHY HARVARD UNIVERSITY 124 MT. AUBURN STREET SUITE 480 SOUTH CAMBRIDGE, MA 02138

> Re: Harvard University Case 01-CA-063309

Dear Mr. Murphy:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney KEVIN MURRAY whose telephone number is (617)565-6720. If KEVIN MURRAY is not available, you may contact Supervisory Attorney KATHLEEN F. MCCARTHY whose telephone number is (617) 565-6754.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent.

Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, <u>www.nlrb.gov</u>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

/s/ Rosemary Pye

Rosemary Pye Regional Director

### Enclosures:

- 1. Copy of Charge
- 2. Commerce Questionnaire

	NATIONAL LABOR REI	ATIONS BOARD		
Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD  QUESTIONNAIRE ON COMMERCE INFORMATION				
Please read carefully, answer all applicable ite			age and identify item number	
CASE NAME	ms, and return to the NERD Office. If add	ilional space is required, please and a p	CASE NUMBER	
Harvard University			01-CA-063309	
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

### **UNITED STATES OF AMERICA**

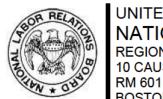
### **BEFORE THE NATIONAL LABOR RELATIONS BOARD**

HARVARD UNIVERSITY	
Charged Party	
and	Case 01-CA-063309
HARVARD UNIVERSITY CLERICAL TECHNICAL WORKER/AMERICAN FEDERATION OF STATE COUNTY AND MUNICIPAL EMPLOYEES	
Charging Party	
AFFIDAVIT OF SERVICE OF CHARGE AGAINS	T EMPLOYER
I, the undersigned employee of the National Labor Rela August 25, 2011, I served the above-entitled document following persons, addressed to them at the following ac	s) by post-paid regular mail upon the
WILLIAM MURPHY HARVARD UNIVERSITY 124 Mt. Auburn Street Suite 480 South Cambridge, MA 02138	
August 25, 2011	forma I. Mobley Designated Agent of NLRB

Name

Signature

Date



REGION 1 10 CAUSEWAY ST RM 601 BOSTON, MA 02222-1072

Agency Website: <u>www.nlrb.gov</u> Telephone: (617)565-6700 Fax: (617)565-6725

August 25, 2011

(b) (6), (b) (7)(C)
HARVARD UNIVERSITY CLERICAL TECHNICAL WORKER/
AMERICAN FEDERATION OF STATE COUNTY
AND MUNICIPAL EMPLOYEES

(b) (6), (b) (7)(C)

Re: Harvard University Case 01-CA-063309

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on August 25, 2011 has been docketed as case number 01-CA-063309. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge will be investigated by Field Attorney KEVIN MURRAY whose telephone number is (617) 565-6720. If the Board agent is not available, you may contact Supervisory Attorney KATHLEEN F. MCCARTHY whose telephone number is (617) 565-6754.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our Website, <u>www.nlrb.gov</u>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our Website: <a href="www.nlrb.gov">www.nlrb.gov</a>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our Website, www.nlrb.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

/s/ Rosemary Pye

Rosemary Pye Regional Director

cc: JOHN C. DEMPSEY
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL MPLOYEES
1101 17TH ST NW
STE 900
WASHINGTON, DC 20036-4712

REGION 1 10 CAUSEWAY ST 6TH FLOOR BOSTON, MA 02222-1001

Agency Website: <u>www.nlrb.gov</u> Telephone: (617)565-6700 Fax: (617)565-6725

October 18, 2011

(b) (6), (b) (7)(C)
HARVARD UNIVERSITY CLERICAL TECHNICAL
WORKERS
(b) (6), (b) (7)(C)

Re: HARVARD UNIVERSITY Case 01-CA-063309

Dear (b) (6), (b) (7)(C)

The Region has carefully considered the charge alleging that HARVARD UNIVERSITY violated the National Labor Relations Act. As explained below, I have decided that further proceedings on the charge should be handled in accordance with the deferral policy of the National Labor Relations Board as set forth in *Collyer Insulated Wire*, 192 NLRB 837 (1971), and *United Technologies Corp.*, 268 NLRB 557 (1984). This letter explains that deferral policy, the reasons for my decision to defer further processing of the charge, and the Charging Party's right to appeal my decision.

**Deferral Policy**: The Board's deferral policy provides that the Board will postpone making a final determination on a charge when a grievance involving the same issue can be processed under the grievance/arbitration provision of the applicable contract. This policy is partially based on the preference that the parties use their contractual grievance procedure to achieve a prompt, fair, and effective settlement of their disputes. Therefore, if an employer agrees to waive contractual time limits and process the related grievance through arbitration if necessary, the Board's Regional Office will defer the charge.

**Decision to Defer**: Based on our investigation, I am deferring further proceedings on the charge in this matter to the grievance/arbitration process for the following reasons:

- 1. The Employer and the Harvard Union of Clerical and Technical Workers have a contract currently in effect that provides for final and binding arbitration.
- 2. The issues of the hours worked by employees during the intercessions and the requirement that employees use their accumulated leave to make up for a loss of hours during those periods as alleged in the charge are encompassed by the terms of the collective-bargaining agreement.

- 3. The Employer is willing to process a grievance concerning the issues in the charge, and will arbitrate the grievance if necessary. The Employer has also agreed to waive any time limitations in order to ensure that the arbitrator addresses the merits of the dispute.
- 4. Since the issues in the charge appear to be covered by provisions of the collective-bargaining agreement, it is likely that the issues may be resolved through the grievance/arbitration procedure.

**Further Processing of the Charge**: As explained below, while the charge is deferred, the Regional office will monitor the processing of the grievance and, under certain circumstances, will resume processing of the charge.

Charging Party's Obligation: Under the Board's Collyer deferral policy, the Charging Party has an affirmative obligation to file a grievance, if a grievance has not already been filed. If the Charging Party fails either to promptly submit the grievance to the grievance/arbitration process or declines to have the grievance arbitrated if it is not resolved, I will dismiss the charge.

Charged Party's Conduct: If the Charged Party prevents or impedes resolution of the grievance, raises a defense that the grievance is untimely filed, or refuses to arbitrate the grievance, I will revoke deferral and resume processing of the charge.

Monitoring the Dispute: Approximately every 90 days, the Regional Office will ask the parties about the status of this dispute to determine if the dispute has been resolved and if continued deferral is appropriate. However, at any time, a party may present evidence and request dismissal of the charge, continued deferral of the charge, or issuance of a complaint.

*Notice to Arbitrator Form*: If the grievance is submitted to an arbitrator, please sign and submit to the arbitrator the enclosed "Notice to Arbitrator" form to ensure that the Region receives a copy of an arbitration award when the arbitrator sends the award to the parties.

Review of Arbitrator's Award or Settlement: If the grievance is arbitrated, the Charging Party may ask the Board to review the arbitrator's award. The request must be in writing and addressed to me. Under current Board law, the request should analyze whether the arbitration process was fair and regular, whether the unfair labor practice allegations in the charge were considered by the arbitrator, and whether the award is consistent with the Act. Further guidance on this review is provided in Spielberg Manufacturing Company, 112 NLRB 1080 (1955) and Olin Corp., 268 NLRB 573 (1984). These Board decisions are available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>. However, the current standard for review may change. The General Counsel's position is that the Board should modify its approach in Section 8(a)(1) and (3) cases and should not defer to an award unless the party urging deferral demonstrates that: (1) that the contract had the statutory right incorporated in it or the parties presented the statutory issue to the arbitrator; and (2) that the arbitrator correctly enunciated the applicable statutory

principles, and applied them in deciding the issue. The General Counsel is also taking the position that the Board should not defer to a pre-arbitral-award grievance settlement in Section 8(a)(1) and (3) cases unless the parties intended the settlement to also resolve unfair labor practice issues.

Charging Party's Right to Appeal: The Charging Party may appeal my decision to defer this charge by filing an appeal with the General Counsel of the National Labor Relations Board, through the Office of Appeals. An appeal may be filed by submitting the enclosed Appeal Form (form NLRB-4767), which is also available at <a href="https://www.nlrb.gov">www.nlrb.gov</a>. However, we encourage the Charging Party to submit a complete statement setting forth the facts and reasons why the decision to defer the charge is incorrect.

*Means of Filing*: An appeal may be filed electronically, by mail, or by delivery service. Filing an appeal electronically is preferred but not required. The appeal <u>MAY NOT</u> be filed by fax. To file an appeal electronically, go to the Agency's website at <u>www.nlrb.gov</u>, click on **File Case Documents**, enter the **NLRB Case Number**, and follow the detailed instructions. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1099 14<sup>th</sup> Street, N.W., Washington, D.C. 20570-0001.

Appeal Due Date and Time: The appeal is due on November 1, 2011. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If the appeal is mailed or sent by a delivery service, it must be received by the General Counsel in Washington, D.C. by the close of business at **5:00 p.m. Eastern Time** or be postmarked or given to the delivery service no later than October 31, 2011. If the appeal is not received when due, it will not be processed.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before** November 1, 2011.. The request may be filed electronically through the *File Case Documents* link on our website <a href="https://www.nlrb.gov">www.nlrb.gov</a>, by fax to (202) 273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after November 1, 2011, **even if it is postmarked or given to the delivery service before the due date**. If you file a request for an extension of time by fax, by mail, or by delivery service, please send a copy of the request for extension of time to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents

for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

Rosemary Pye Regional Director

### RP:cds

#### **Enclosures**

cc: GENERAL COUNSEL
OFFICE OF APPEALS
FRANKLIN COURT BUILDING
NATIONAL LABOR RELATIONS
BOARD
1099 14<sup>TH</sup> STREET, NW
WASHINGTON, DC 20570

WILLIAM MURPHY HARVARD UNIVERSITY 124 MOUNT AUBURN ST STE 480 SOUTH CAMBRIDGE, MA 02138-5813

JOHN C. DEMPSEY, ATTORNEY AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES 1101 17th STREET N.W., SUITE 900 WASHINGTON, DC 20036-5687 ELIZABETH SEAMAN, ESQ. HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE CAMBRIDGE, MA 02138-3846

# UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD NOTICE TO ARBITRATOR

TO:		
	(Arbitrator)	
	(Address)	
		NLRB Case Number 01-CA-063309
NLR	B Case Name: Harvard Unive	rsity
NLRE proceed the un Region	Relations Board to administrative charge in the above matter. Further to arbitration before you in order to arbitration before you in order to the Regional Director charged hereby requests that a	by the Regional Director of Region 01 of the National ely defer to arbitration the further processing of the ther, both parties to the NLRB case have agreed to er to resolve the dispute underlying the NLRB charge. In be promptly informed of the status of the arbitration, copy of the arbitration award be sent to Regional Director TON, MA 02222-1001 at the same time that it is sent to
	(Name)	
	(Title)	

## UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

### APPEAL FORM

To: General Counsel	Date:
Attn: Office of Appeals	
National Labor Relations Board	
Room 8820, 1099 - 14th Street, N.V	V.
Washington, DC 20570-0001	
Lam appealing the action of the D	agional Director in deferring the charge in
ram appealing the action of the R	egional Director in deferring the charge in
Case Name(s).	
Case No(s). (If more than one case numble taken.)	ber, include all case numbers in which appeal is
	(Signature)



REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725

November 22, 2013

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE., SUITE 980 CAMBRIDGE, MA 02138-3846

Re: Harvard University

Case 01-CA-063309

Dear Ms. SEAMAN:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/s/ Jonathan B. Kreisberg

JONATHAN B. KREISBERG

Regional Director

ce: WILLIAM MURPHY
DIRECTOR LABOR AND EMPLOYEE
RELATIONS
HARVARD UNIVERSITY
124 MOUNT AUBURN ST., SUITE 480
SOUTH

CAMBRIDGE, MA 02138-5813

WILLIAM LURYE GENERAL COUNSEL

AMERICAN FEDERATION OF STATE,

COUNTY & MUNICIPAL EMPLOYEES, LOCAL 101 1101 17TH ST NW, SUITE 900 WASHINGTON, DC 20036-4712

(b) (6), (b) (7)(C)

HARVARD UNION OF CLERICAL & TECHNICAL WORKERS/ AFSCME LOCAL 3650 (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

PAGE 01/01

FORM EXEMPT UNDER 44 U.S.C 3512

INTERNET FORM NLRB-501 (2-08) UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER Politic Charles Political Control of Control

### DO NOT WRITE IN THIS SPACE

Case 01-CA-148077

Date Filed

3-11-2015

File an original with NLRB Regional Director for the region in which  1. EMPLOYER	the alleged unfair labor practice occurred or is occu AGAINST WHOM CHARGE IS BROUGHT	, .
a. Name of Employer		ь. теl. No (СТТ) 495 2786
HARVARD UNIVERSITY, HARVARD LIBRARY-INFORMA	TON AND TECHNICAL SERVIC	Es c. Cell No.
		f. Fax No. ,
d. Address (Street, city, state, and ZIP code)	e. Employer Représentative	Mail
625 Massachusetts Ave	William Murphy	g. e-Mall bill_murphy@hanad.ea
Cambridge, MA 02139	Director Labor Relations	h. Number of workers employed
i. Type of Establishment (factory, mine, wholeseler, etc.)	j. Identify principal product or service $E^{\mathrm{L}}$	PUCATION
k. The above-named employer has engaged in and is engagin	ig in unfair labor practices within the meaning of	section 8(a), subsections (1) and (list
subsections) $\&A(5)$	of the National L	abor Relations Act, and these unfair labor
prectices are practices affecting commerce within the mean within the meaning of the Act and the Postal Reorganization	,	unfair practices affecting commerce
2. Basis of the Charge (set forth a clear and concise statement	nt of the facts constituting the alleged unfair labor	practices)
The employer, it give the union is safety and bruilden blocked unmarcess to m	n the past 6 months	, has refused to
safety and bruilden	& conditions. The	employer has
blocked unmaccess to m	ectings, inspection	o:
3. Full name of party filling charge (it labor organization, give to Harvard Union of Clerical and Technical Wa	ull name. Including local name and number	
Harvard Union of Clerical and Technical Wa	whers/AFSCME 3650 (D	(6), (b) (7)(C)
4a. Address (Street and number, city, state, and ZIP code)		4b. Tel. No. (b) (6), (b) (7)(C)

15 Mount Arburn St Cambridge, MA 02138 4b. Tel. No. (b) (6), (b) (7)(C)
4c. Coll No.

4d. Fax No. / /

4e. e-Mall
(b) (6), (b) (7)(C)

ed in when charge is filed by a lebor

5. Full name of national or international labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization)

American Federation of State, County and Municipal Employees, AFL-CIO (b) (6), (b) (7)(C)
6 DECLARATION

(b) (6), (b) (7)(C)

(signature of representative or person making charge)

(b) (6), (b) (7)(C)

Office, If any, Cell No. (b)(6), (b)(7)(C)

Fax No.

625 Massachusetts Are AUdress Cambridge, MAOZ139

3-11-2015 (date)

e-Mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 of seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Faderal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.





 REGION 1
 Agency Website: www.nlrb.gov

 10 Causeway St FI 6
 Telephone: (617)565-6700

 Boston, MA 02222-1001
 Fax: (617)565-6725

Download NLRB Mobile App

March 13, 2015

HARVARD UNIVERSITY- HARVARD LIBRARY- INFORMATION AND TECHNICAL SERVICES
625 MASSACHUSETTS AVE
CAMBRIDGE, MA 02139-3357

Re: HARVARD UNIVERSITY, HARVARD LIBRARY-INFORMATION AND TECHNICAL SERVICES Case 01-CA-148077

Dear Sir or Madam:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney LISA FIERCE whose telephone number is (617)565-6743. If this Board agent is not available, you may contact Deputy Regional Attorney ROBERT REDBORD whose telephone number is (617)565-6748.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Case 01-CA-148077

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

**Procedures:** We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, <a href="www.nlrb.gov">www.nlrb.gov</a>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Case 01-CA-148077

Very truly yours,

JONATHAN B. KREISBERG

sten Keerling

Regional Director

### JBK/rd

#### **Enclosures:**

- 1. Copy of Charge
- 2. Commerce Questionnaire

cc: WILLIAM MURPHY, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS
HARVARD UNIVERSITY
1350 MASSACHUSETTS AVE
CAMBRIDGE, MA 02138-3846

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 CAMBRIDGE, MA 02138-3846

D12/01/0011	NATIONAL LABOR DEL	ATIONS BOARD			
Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD					
	ESTIONNAIRE ON COMME				
Please read carefully, answer all applicable ite CASE NAME	ms, and return to the NLRB Office. If add	litional space is required, please add a	page and identify item number.  CASE NUMBER		
HARVARD UNIVERSITY, F	JADWADD I IRDADV <sub>-</sub> INI	FORMATION AND	01-CA-148077		
-	IAK VAKD LIBKAK I -IIV	PORMATION AND	01-CA-146077		
TECHNICAL SERVICES	(A - El - 1 A - C4 - 4 1/ 4 - 4 - 1 1 -				
1. EXACT LEGAL TITLE OF ENTITY (	As filed with State and/or stated in le	gai documents forming entity)			
2. TYPE OF ENTITY					
[] CORPORATION [] LLC [] L	LP [] PARTNERSHIP [] SO	DLE PROPRIETORSHIP [ ] OT	HER (Specify)		
3. IF A CORPORATION or LLC					
A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELAT	TONSHIP (e.g. parent, subsidiary) Ol	F ALL RELATED ENTITIES		
4. IF AN LLC OR ANY TYPE OF PART	NERSHIP, FULL NAME AND ADD	RESS OF ALL MEMBERS OR PA	RTNERS		
	<del>,,</del>				
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5. IF A SOLE PROPRIETORSHIP, FUL	L NAME AND ADDRESS OF PROF	RIETOR			
6. BRIEFLY DESCRIBE THE NATURE	OF YOUR OPERATIONS (Products	s handled or manufactured, or nature	of services performed).		
7. A. PRINCIPAL LOCATION:	B. BRANCH I	LOCATIONS:			
8. NUMBER OF PEOPLE PRESENTLY	FMPLOVED				
A. Total:	B. At the address involved in thi	s matter			
9. DURING THE MOST RECENT (Che			COAL VD (EV Jates		
9. DURING THE MOST RECENT (Chec	ck appropriate box): [ ] CALENDAR	IR [] 12 MONTHS OF [] FIS	SCAL IK (F1 autes	YES	NO
A. Did you <b>provide services</b> valued in \$	excess of \$50,000 directly to custor	ners outside your State? If no, inc	dicate actual value.		
B. If you answered no to 9A, did you p			_		
valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.  \$					
C. If you answered no to 9A and 9B, did you <b>provide services</b> valued in excess of \$50,000 to public utilities, transit systems,					
newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If					
less than \$50,000, indicate amount. \$  D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate					
amount. \$	or \$50,500 directly to editoriers to	carea outside your state. If less th	ian 450,000, marcate		
E. If you answered no to 9D, did you so	ell goods valued in excess of \$50,00	00 directly to customers located in	side your State who		
purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.					
F. Did you purchase and receive good	Is valued in excess of \$50,000 from	directly outside your State? If le	ess than \$50,000, indicate		
amount. \$  G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points					
outside your State? If less than \$5  H. Gross Revenues from all sales or p		Invast amount)			<u> </u>
[] \$100,000 [] \$250,000 [] \$5			nt.		
I. Did you begin operations within					
10 ARE YOU A MEMBER OF AN ASSO			OLI ECTIVE DADCAINING	19	
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[ ] YES [ ] NO (If yes, name and address of association or group).					
11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS  NAME   TITLE   E-MAIL ADDRESS   TEL. NUMBER					
12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE					
NAME AND TITLE (Type or Print)	RIZED REPRESENTATIVE SIGNATURE	E-MAIL ADDRESS		TE	
NAME AND TITLE (Type or Frint)	SIGNATURE	E-WAIL ADDRESS	DF	ATE	

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may

cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

### **UNITED STATES OF AMERICA**

### BEFORE THE NATIONAL LABOR RELATIONS BOARD

HARVARD UNIVERSITY, HARVARD
LIBRARY-INFORMATION AND TECHNICAL
SERVICES

**Charged Party** 

and

HARVARD UNION OF CLERICAL & TECHNICAL WORKERS/AFSCME 3650

**Charging Party** 

Case 01-CA-148077

### AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 13, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

WILLIAM MURPHY, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY 1350 MASSACHUSETTS AVE CAMBRIDGE, MA 02138-3846

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 CAMBRIDGE, MA 02138-3846

HARVARD UNIVERSITY- HARVARD LIBRARY- INFORMATION AND TECHNICAL SERVICES
625 MASSACHUSETTS AVE
CAMBRIDGE, MA 02139-3357

March 13, 2015	Rosa Diaz, Designated Agent of NLRB
Date	Name
	/s/ Rosa Diaz
	Signature



Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725

Download NLRB Mobile App

March 13, 2015

(b) (6), (b) (7)(C)

**REGION 1** 

10 Causeway St FI 6

Boston, MA 02222-1001

HARVARD UNION OF CLERICAL & TECHNICAL WORKERS/AFSCME 3650 15 MOUNT AUBURN ST CAMBRIDGE, MA 02138-6030

> Re: HARVARD UNIVERSITY, HARVARD LIBRARY-INFORMATION AND TECHNICAL SERVICES Case 01-CA-148077

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on March 11, 2015 has been docketed as case number 01-CA-148077. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney LISA FIERCE whose telephone number is (617)565-6743. If this Board agent is not available, you may contact Deputy Regional Attorney ROBERT REDBORD whose telephone number is (617)565-6748.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you

HARVARD UNIVERSITY, HARVARD
LIBRARY-INFORMATION AND
TECHNICAL SERVICES
Case 01-CA-148077

fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website www.nlrb.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlrb.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JONATHAN B. KREISBERG

Mosten Menling

Regional Director

JBK/rd

Copy of charge only sent to:

WILLIAM LURYE, GENERAL COUNSEL AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES (AFSCME), AFL-CIO 1101 17TH STREET, N.W. STE 900 WASHINGTON, DC 20036-4712 JANE CARTER, ASSISTANT DIRECTOR OF ORGANIZING AND FIELD SERVICES
AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO
1625 L ST NW
WASHINGTON, DC 20036-5665

### NATIONAL LABOR RELATIONS BOARD

### NOTICE OF APPEARANCE

Harvard University, Harvard Library, Information and Technical Services  and Harvard Union of Clerical and Technical Workers, AFSCME 3650, (b) (6), (b) (7)(C)	CASE 01-CA-148077				
X REGIONAL DIRECTOR EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL NATIONAL LABOR RELATIONS BOARD Washington, DC 20570				
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF  Employer, Harvard University					
IN THE ABOVE-CAPTIONED MATTER.					
CHECK THE APPROPRIATE BOX(ES) BELOW:  REPRESENTATIVE IS AN ATTORNEY. IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY V DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMEN CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS WILL RECEIVE ONLY COPIES OF CERTAIN				
(REPRESENTATIVE INFOR	MATION)				
NAME: Elizabeth P. Seaman					
MAILING ADDRESS: Harvard University, Office of the General C Richard A. and Susan F. Smith Campus Ce	ounsel, 1350 Massachusetts Avenue, enter, Suite 980, Cambridge, MA 02138				
E-MAIL ADDRESS: elizabeth_seaman@harvard.edu					
OFFICE TELEPHONE NUMBER: 617-496-2791					
CELL PHONE NUMBER: 617-251-5629	FAX: 617-495-5079				
SIGNATURE: (Please sign in tak) 3/16/15					

 $<sup>^{\</sup>rm I}$  if case is pending in Washington and notice of appearance is sent to the general counsel or the executive secretary, a copy should be sent to the regional director of the region in which the case was filed so that those records will reflect the appearance.



REGION 1 10 Causeway St Fl 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725

May 28, 2015

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 CAMBRIDGE, MA 02138-3846

Re: HARVARD UNIVERSITY, HARVARD LIBRARY-INFORMATION AND

TECHNICAL SERVICES

Case 01-CA-148077

Dear Ms. Seaman:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

JONATHAN B. KREISBERG Regional Director

JBK/rd

cc: WILLIAM MURPHY, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY
1350 MASSACHUSETTS AVE
CAMBRIDGE, MA 02138-3846

HARVARD UNIVERSITY- HARVARD LIBRARY- INFORMATION AND TECHNICAL SERVICES
625 MASSACHUSETTS AVE
CAMBRIDGE, MA 02139-3357

(b) (6), (b) (7)(C)

HARVARD UNION OF CLERICAL & TECHNICAL WORKERS/AFSCME 3650 15 MOUNT AUBURN ST CAMBRIDGE, MA 02138-6030

FORM EXEMPT UNDER 44 U.S.C 3512

INTERNET FORM NURB-501 (2-08) UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER

DO NOT WRITE IN THIS SPACE

DO NOT WRITE IN THIS SPA

01-CA-156003

Date Filed 7/15/2015

INIC 3	ro:	-	-	ıc.
INST	יאו	,,,	101	чъ.

File an original with NLRB Regional Director for the region in which the elieged unfair labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT

a. Name of Employer

HARVARD UNIVERSITY

b. Tel. No. (617)496 300 6

c. Cell No.

f, Fax No.

d. Address (Street, city, state, and ZIP code) SMITH CAMPUS CENTER, Suite 980 1350 Massachuselts the Cambon dge, MA 02138-3834

c. Employer Representative

RANNA FARZAN (OFFICE GEN.COUNSEL) g. e-Mail ranna-farzan@ harvard edu

h. Number of workers employed

5000++

i. Type of Establishment (factory, mine, wholosaler, etc.)

UN IVERSITY

j. Identify principal product or service

k. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (list subsections)

of the National Labor Relations Act, and these unfair labor

practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Employer refuses to Bargan onen Mandatory subjects (ortsourcing, Outomation)

Employer is implementing then proposed outsourced workflow (mid-Contract) despite union's requests for delay and more time to Bargain

Umon requested and initiated bargaining,

3. Full name of party filing charge (if labor organization, give full name, including local name and number)

(b) (6), (b) (7)(C) HARVARD UNION OF CLERICAL AND TECHNICAL WORKERS, AFSCME 3650

(b) (6), (b) (7)(C)

4b. Tel. No	(a) (	<b>6</b> ), (	b) (a	/ )(C	)
4c. Cell No		, ,			
4d. Fax No	),				
4e. e-Mall	(b)	(6),	(b)	(7)	(C)

5. Full name of national or International labor organization of which it is an affiliate or constituent unit (to be filled in when charge is filed by a labor organization) HARVARD UNION OFCLERICAL AND TECHNICAL WORKERS, AFSCME 3650

6. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief,

Tel. No. (b) (6), (b) (7)(C

Office, if any, Cell No.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Fex No.

e-Meil

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(date) 7-15-2015

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the Information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2005). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725 Download NLRB Mobile App

July 15, 2015



Re: HARVARD UNIVERSITY Case 01-CA-156003

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on July 15, 2015 has been docketed as case number 01-CA-156003. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Examiner HOLLY BEAVERSTOCK whose telephone number is (617) 565-6736. If this Board agent is not available, you may contact Supervisory Attorney KATHLEEN F. MCCARTHY whose telephone number is (617) 565-6754.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <u>www.nlrb.gov</u>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Procedures</u>: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website www.nlrb.gov. However, the Agency will continue

to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website www.nlrb.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

Jonathan B. Kreisberg Regional Director

Hosten Menling

JBK/rwg

Copy of charge only sent to:

WILLIAM LURYE, GENERAL COUNSEL AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES (AFSCME) 1101 17TH STREET, NW, SUITE 900 WASHINGTON, DC 20036

JANE CARTER, ASSISTANT
DIRECTOR OF ORGANIZING AND
FIELD SERVICES
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO
1625 L ST NW
WASHINGTON, DC 20036-5665



REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725 Download NLRB Mobile App

July 15, 2015

RANNA FARZAN, OFFICE/GENERAL COUNSEL SMITH CAMPUS CENTER, SUITE 980 1350 MASSACHUSETTS AVENUE CAMBRIDGE, MA 02138-3834

> Re: HARVARD UNIVERSITY Case 01-CA-156003

Dear Ms. Farzan:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Examiner HOLLY BEAVERSTOCK whose telephone number is (617) 565-6736. If this Board agent is not available, you may contact Supervisory Attorney KATHLEEN F. MCCARTHY whose telephone number is (617) 565-6754.

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If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, <u>www.nlrb.gov</u>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

Jonathan B. Kreisberg Regional Director

Hostin Keeling

JBK/rwg

Enclosures:

- 1. Copy of Charge
- 2. Commerce Questionnaire

cc: ELIZABETH P. SEAMAN,
UNIVERSITY ATTORNEY
HARVARD UNIVERSITY - OFFICE OF
THE GENERAL COUNSEL
1350 MASSACHUSETTS AVE STE 980
CAMBRIDGE, MA 02138-3846

WILLIAM F. MURPHY, DIRECTOR HARVARD UNIVERSITY, LABOR AND EMPLOYEE RELATIONS 124 MOUNT AUBURN ST STE 480 CAMBRIDGE, MA 02138-5813

Revised 3/21/2011	NATIONA	AL LABOR RELATION	S BOARD			
QU	ESTIONNAIRE (	ON COMMERCE II	NFORMATION			
Please read carefully, answer all applicable ite	ms, and return to the NL	RB Office. If additional sp	ace is required, please add a page	and identify item numl	ber.	
CASE NAME				CASE NUMBER	2	
HARVARD UNIVERSITY  1. EXACT LEGAL TITLE OF ENTITY (	As filed with State an	d/or stated in legal docur	nents forming entity)	01-CA-156003	)	
I. EARCH LEGAL TITLE OF ENTITY	As med with State and	u/or stated in legar docur	nearts for ming entity)			
4 TUDE OF ENTITY						
2. TYPE OF ENTITY  [] CORPORATION [] LLC [] L	LP [ ] PARTNER	RSHIP [] SOLE PRO	PRIETORSHIP [ ] OTHER	(Specify)		
3. IF A CORPORATION or LLC	EI [] IMCINE	torm [] sold rice	TREFOREIM [] OTHER	(opechy)		
A. STATE OF INCORPORATION	B. NAME, ADDRES	SS, AND RELATIONSHII	(e.g. parent, subsidiary) OF AL	L RELATED ENTITI	ES	
OR FORMATION						
4. IF AN LLC OR ANY TYPE OF PART	NERSHIP, FULL NA	AME AND ADDRESS OF	FALL MEMBERS OR PARTY	TERS		
5. IF A SOLE PROPRIETORSHIP, FUL	L NAME AND ADDI	RESS OF PROPRIETOR				
6. BRIEFLY DESCRIBE THE NATURE	OF YOUR OPERAT	TIONS (Products handled	or manufactured, or nature of se	rvices performed).		
7. A. PRINCIPAL LOCATION:		B. BRANCH LOCATIO	ONS:			
8. NUMBER OF PEOPLE PRESENTLY						
A. Total:		ss involved in this matter:	14 MONTHING 1 LINIGAL	VD (EV.)		`
9. DURING THE MOST RECENT (Chec	ck appropriate box):	CALENDAR YR []	12 MONTHS or [ ] FISCAL	L YR (FY dates	YES	NO
A. Did you provide services valued in	excess of \$50,000 di	rectly to customers outs	ide your State? If no, indicat	e actual value.	ILS	110
\$ D If		-1:	to overtomone in seem State w	ha mushasad aaad		
B. If you answered no to 9A, did you <b>provide services</b> valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.						
\$						
<ul> <li>If you answered no to 9A and 9B, did newspapers, health care institutions,</li> </ul>						
less than \$50,000, indicate amount.		s, commercial buildings	s, educational institutions, of i	etan concerns: 11		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate						
amount. \$  E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who						
purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.						
\$						
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$						
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points						
outside your State? If less than \$50,000, indicate amount. \$ H. Gross Revenues from all sales or performance of services (Check the largest amount)						
[] \$100,000 [] \$250,000 [] \$500,000 [] \$1,000,000 or more If less than \$100,000, indicate amount.						
I. Did you begin operations within the last 12 months? If yes, specify date:						
10 ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?						
[ ] YES [ ] NO (If yes, name and	address of association	or group).				
11. REPRESENTATIVE BEST QUALIFI				l mor as	TA (DED	
NAME	TITLE	E-MA	IL ADDRESS	TEL. N	IUMBER	
						_
NAME AND TITLE (Type or Print)	RIZED REPRES SIGNATURE	ENTATIVE COMP	LETING THIS QUESTI E-MAIL ADDRESS	ONNAIRE	DATE	
NAME AND TITLE (Type or Frint)	SIGNATURE		E-MAIL ADDRESS		DATE	
			I			

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

#### UNITED STATES OF AMERICA

### BEFORE THE NATIONAL LABOR RELATIONS BOARD

### HARVARD UNIVERSITY

**Charged Party** 

and

Case 01-CA-156003

### HARVARD UNION OF CLERICAL AND TECHNICAL WORKERS, AFSCME 3650

**Charging Party** 

#### AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on July 15, 2015, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

RANNA FARZAN, OFFICE/GENERAL COUNSEL SMITH CAMPUS CENTER, SUITE 980 1350 MASSACHUSETTS AVENUE CAMBRIDGE, MA 02138-3834

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 CAMBRIDGE, MA 02138-3846

WILLIAM F. MURPHY, DIRECTOR HARVARD UNIVERSITY, LABOR AND EMPLOYEE RELATIONS 124 MOUNT AUBURN ST STE 480 CAMBRIDGE, MA 02138-5813

July 15, 2015	Robert W. Gaffney, Designated Agent of
	NLRB
Date	Name
	/ / To 1

/s/ Robert W. Gaffney

Signature

#### NATIONAL LABOR RELATIONS BOARD

### NOTICE OF APPEARANCE

Harvard University				
and (b) (6), (b) (7)(C) Harvard Union of Cierical and Technical Workers, AFSCME 3650	CASE 01-CA-156003			
REGIONAL DIRECTOR   EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL NATIONAL LABOR RELATIONS BOARD Washington, DC 20576			
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATE	IVE OF			
IN THE ABOVE-CAPTIONED MATTER.				
CHECK THE APPROPRIATE BOX(ES) BELOW:  REPRESENTATIVE IS AN ATTORNEY  IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WOOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENT CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS VILL RECEIVE ONLY COPIES OF CERTAIN			
(REPRESENTATIVE INFORM	MATION)			
NAME: Elizabeth P. Seaman				
MAILING ADDRESS: Harvard University, Office of the General Counsel, 1350 Massachusetts Avenue, Richard A. and Susan F. Smith Campus Center, Suite 980, Cambridge, MA 02138				
E-MAIL ADDRESS: elizabeth_seaman@harvard.edu				
OFFICE TELEPHONE NUMBER: 617-496-2791				
CELL PHONE NUMBER: 617-251-5629	<sub>FAX:</sub> 617-495-5079			
SIGNATURE: Cina De				

IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725

October 14, 2015

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE., SUITE 980 CAMBRIDGE, MA 02138-3846

> Re: HARVARD UNIVERSITY Case 01-CA-156003

Dear Ms. SEAMAN:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

/s/ Jonathan B. Kreisberg

JONATHAN B. KREISBERG Regional Director

cc:

(b) (6), (b) (7)(C)

WILLIAM LURYE, GENERAL COUNSEL AFSCME, AFL-CIO 1101 17<sup>TH</sup> ST., NW, SUITE 900 WASHINGTON, DC 20036

RANNA FARZA
OFFICE/GENERAL COUNSEL
SMITH CAMPUS CENTER, SUITE 980
1350 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02138-3834

JANE CARTER, ASSISTANT DIRECTOR OF ORGANIZING & FIELD SERVICES AFSCME, AFL-CIO 1625 L STREET, NW WASHINGTON, DC 20036-5665

WILLIAM F. MURPHY, DIRECTOR HARVARD UNIVERSITY LABOR & EMPLOYEE RELATIONS 124 MOUNT AUBURN ST., SUITE 480 CAMBRIDGE, MA 02138-5813

INTERNET FORM NLRB-501

UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD **CHARGE AGAINST EMPLOYER** 

DO NOT WRITE	IN THIS SPACE
Case	Date Filed
1-CA-197219	4/19/17

FORM EXEMPT UNDER 44 U.S.C 3512

### INSTRUCTIONS:

		eged unfair labor practice occurred or is	

File an original with NLRB Regional Director for the region in which the 1. EMPLOYER AC	e alleged unfair labor practice occurred or is occurrir SAINST WHOM CHARGE IS BROUGHT	ng.		
a. Name of Employer		b. Tel. No.		
Harvard University Dining Services		(617) 823-3789		
		c. Cell No.		
		f. Fax No.		
d. Address (Street, city, state, and ZIP code)	e. Employer Representative	1. 1 47 10.		
045	Maura an Bura	g. e-Mail		
945 memorial dr	Maureen Russ General Manager	maureen_russ@harvard.edu		
MA cambridge 02138	Conordi Managor	h. Number of workers employed		
		30		
<ol> <li>Type of Establishment (factory, mine, wholesaler, etc.)</li> <li>Others</li> </ol>	j. Identify principal product or service			
k. The above-named employer has engaged in and is engaging it	hospitality	tion 8(a) subsections (1) and //ist		
subsections) 3,5				
		or Relations Act, and these unfair labor		
practices are practices affecting commerce within the meaning within the meaning of the Act and the Postal Reorganization A		nair practices affecting commerce		
2. Basis of the Charge (set forth a clear and concise statement of	of the facts constituting the alleged unfair labor pra	actices)		
See additional page				
occ additional page				
3. Full name of party filing charge (if labor organization, give full name, including local name and number) (b) (6), (b) (7)(C)  Title:				
4a. Address (Street and number, city, state, and ZIP code)		4b. Tel. No. (b) (6), (b) (7)(C)		
(b) (6), (b) (7)(C)		4c. Cell No. (b) (6), (b) (7)(C)		
		4d. Fax No. (b) (6), (b) (7)(C)		
		4e. e-Mail		
		(b) (6), (b) (7)(C)		
5. Full name of national or international labor organization of wh	ich it is an affiliate or constituent unit (to be filled i	in when charge is filed by a labor		
organization)				
6. DECLARATION I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief.				
, and the second	,	(b) (6), (b) (7)(C)		
(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)	Office, if any, Cell No.		
By	Print/type name and title or office, if any)	(b) (6), (b) (7)(C)		
	,	Fax No. (b) (6), (b) (7)(C)		
(b) (6), (b) (7)(C)	04/19/2017 11:16:59	e-Mail		
Address	(date)	(b) (6), (b) (7)(C)		
	• • • • • • • • • • • • • • • • • • • •			

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

### **Basis of the Charge**

### 8(a)(3)

Within the previous six months, the Employer disciplined or retaliated against an employee(s) because the employee(s) joined or

supported a labor organization and in order to discourage union activities and/or membership.

Name of employee disciplined/retaliated against	Type of discipline/retaliation	Approximate date of discipline/retaliation
(b) (6), (b) (7)(C)	demotion/shift change	(a) (b) (b) (c) (c) (c) (c) (c) (c) (c) (c) (c) (c

### 8(a)(5)

Within the previous six months, the Employer failed and refused to bargain in good faith with the union as the collective bargaining

representative of its employees by failing to furnish information requested by the union.

Date of request	Employer representative	List items requested	Date refused
3/24/2017	(b) (6), (b) (7)(C)	list of chronos punches	3/27/2017



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725 Download NLRB Mobile App

April 20, 2017

Maureen Russ, General Manager Harvard University Dining Services 945 Memorial Dr Cambridge, MA 02138

Re: Harvard University Dining Services

Case 01-CA-197219

Dear Ms. Russ:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney Lucy E. Reyes whose telephone number is (857)317-7800. If this Board agent is not available, you may contact Supervisory Attorney Laura A. Sacks whose telephone number is (857)317-7802.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

**Procedures:** We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, <a href="www.nlrb.gov">www.nlrb.gov</a>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JOHN J. WALSH, JR. Regional Director

### Enclosures:

- 1. Copy of Charge
- 2. Commerce Questionnaire

Revised 3/21/2011	NATIONAL LABOR RELA	ATIONS	BOARD			
QUESTIONNAIRE ON COMMERCE INFORMATION						
	Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.					
CASE NAME				umber A-19721	0	
1. EXACT LEGAL TITLE OF ENTITY (	As filed with State and/or stated in lega	l docum		19/21	9	
	in a men with state and or stated in regard	11001111	ents forming entity)			
A THE OF PARTY		_				_
2. TYPE OF ENTITY  [ ] CORPORATION [ ] LLC [ ] L	LP [] PARTNERSHIP [] SOI	E DROD	RIETORSHIP [ ] OTHER (Specify	`		
3. IF A CORPORATION or LLC	LP [] FARTNERSHIP [] SOL	E PROP	RIETORSHIP [ ] OTHER (Specify	,		
A. STATE OF INCORPORATION	B. NAME, ADDRESS, AND RELATION	ONSHIP	(e.g. parent, subsidiary) OF ALL RELAT	ED ENTITI	IES	
OR FORMATION						
4. IF AN LLC OR ANY TYPE OF PART	TNERSHIP, FULL NAME AND ADDR	ESS OF	ALL MEMBERS OR PARTNERS			
5. IF A SOLE PROPRIETORSHIP, FUL	L NAME AND ADDRESS OF PROPR	IETOR				
·						
6. BRIEFLY DESCRIBE THE NATURE	OF YOUR OPERATIONS (Products h	andled o	r manufactured, or nature of services per	formed).		
7. A. PRINCIPAL LOCATION:	B. BRANCH LO	OCATIO	NS:			
8. NUMBER OF PEOPLE PRESENTLY	EMPLOYED					
A. Total:	B. At the address involved in this	matter:				
9. DURING THE MOST RECENT (Chec	ck appropriate box): [ ] CALENDAR Y	R []]	2 MONTHS or [ ] FISCAL YR (F	Y dates		)
					YES	NO
A. Did you <b>provide</b> services valued in \$	excess of \$50,000 directly to custome	ers outsi	de your State? If no, indicate actual	value.		
B. If you answered no to 9A, did you <b>p</b>	rovide services valued in excess of \$	50,000	to customers in your State who purch	ased goods	s	
	rectly outside your State? If no, indic					
\$		C th C	0.000			
C. If you answered no to 9A and 9B, did you <b>provide services</b> valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If						
less than \$50,000, indicate amount. \$						
D. Did you sell goods valued in excess	of \$50,000 directly to customers loca	ited outs	ide your State? If less than \$50,000,	indicate		
amount. \$	ell goods valued in excess of \$50,000	directly	to customers located inside your Sta	ite who		
	ess of \$50,000 from directly outside					
\$						
F. Did you purchase and receive good amount. \$	F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate					
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points						
outside your State? If less than \$5						
H. Gross Revenues from all sales or performance of services (Check the largest amount)  [ ] \$100,000 [ ] \$250,000 [ ] \$500,000 [ ] \$1,000,000 or more If less than \$100,000, indicate amount.						
I. Did you begin operations within			100,000, moreure amount.			
10 ARE YOU A MEMBER OF AN ASSO			THAT ENGAGES IN COLLECTIVE	BARGAIN	ING?	
[ ] YES [ ] NO (If yes, name and						
11. REPRESENTATIVE BEST QUALIFI		TON AE	OUT YOUR OPERATIONS			
NAME	TITLE	E-MA	L ADDRESS	TEL. N	NUMBER	
	RIZED REPRESENTATIVE O	COMP		IRE		
NAME AND TITLE (Type or Print)	SIGNATURE		E-MAIL ADDRESS		DATE	

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

HARVARD UNIVERSITY DINING SERVIC	EES
Charged Party	
and	Case 01-CA-197219
(b) (6), (b) (7)(C)	
Charging Party	
AFFIDAVIT OF SERVICE OF CHARGE AC	GAINST EMPLOYER
I, the undersigned employee of the National Laboratory April 20, 2017, I served the above-entitled document following persons, addressed to them at the following persons.	nent(s) by post-paid regular mail upon the
Maureen Russ, General Manager Harvard University Dining Services 945 Memorial Dr Cambridge, MA 02138	
April 20, 2017	Andrea Seyfried, Designated Agent of NLRB
Date	Name

/s/Andrea Seyfried
Signature



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700 Fax: (617)565-6725 Download NLRB Mobile App

April 20, 2017



Re: Harvard University Dining Services

Case 01-CA-197219

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on April 19, 2017 has been docketed as case number 01-CA-197219. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Field Attorney Lucy E. Reyes whose telephone number is (857)317-7800. If this Board agent is not available, you may contact Supervisory Attorney Laura A. Sacks whose telephone number is (857)317-7802.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <u>www.nlrb.gov</u>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Procedures</u>: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website <u>www.nlrb.gov</u>. However, the Agency will continue

to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website <a href="www.nlrb.gov">www.nlrb.gov</a> or from the Regional Office upon your request. NLRB Form 4541, Investigative Procedures offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JOHN J. WALSH, JR. Regional Director

### NATIONAL LABOR RELATIONS BOARD

### NOTICE OF APPEARANCE

Harvard University				
and (b) (6), (b) (7)(C)	CASE 01-CA-197219			
X REGIONAL DIRECTOR EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL  NATIONAL LABOR RELATIONS BOARD  Washington, DC 20570			
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATE	IVE OF			
Employer, Harvard University				
IN THE ABOVE-CAPTIONED MATTER.				
CHECK THE APPROPRIATE BOX(ES) BELOW:  REPRESENTATIVE IS AN ATTORNEY				
☐ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WE DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENT CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS VILL RECEIVE ONLY COPIES OF CERTAIN			
(REPRESENTATIVE INFORM	IATION)			
NAME: Elizabeth P. Seaman				
MAILING ADDRESS: Harvard University, Office of the General Counsel, 1350 Massachusetts Avenue, Richard A. and Susan F. Smith Campus Center, Suite 980, Cambridge, MA 02138				
E-MAIL ADDRESS: elizabeth_seaman@harvard.edu				
OFFICE TELEPHONE NUMBER: 617-496-2791				
CELL PHONE NUMBER: 617-251-5629	<sub>FAX:</sub> 617-495-5079			
SIGNATURE: Elizabeth elman  DATE: 5/11/17				

 $<sup>^{\</sup>rm I}$  if case is pending in Washington and Notice of appearance is sent to the general counsel or the executive secretary, a copy should be sent to the regional director of the region in which the case was filed so that those records will reflect the appearance.

Form N/LRED - 501 (2-08)

### UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

### FIRST AMENDED CHARGE AGAINST EMPLOYER INSTRUCTIONS:

DO NOT WRITE IN THIS SPACE
Case Date Filed

01-CA-197219

July 6, 2017

File an original of this charge with NLRB Regional Director in which the afteged unital labor practice occurred or is occurring.

1. EMPLOYER AGAINST WHOM CHARGE IS BROUGHT a Name of Employer b. Tel. No. Harvard University Dining Services (617)495-4812 c. Cell No. d. Address (street, city, state ZIP code) e. Employer Representative F. Fax No. 124 Mt. Auburn St., Cambridge, MA DAVID DAVIDSON g. e-Mail Managing Director 02138david\_davidson@harvard.edu h. Dispute Location (City and State) Cambridge, MA i. Type of Establishment (factory, nursing home, j. Principal Product or Service k. Number of workers at dispute location hotel) Educational institution Hospitality

I. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 8(a), subsections (1) and (3) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices are unfair practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

About (b) (c), (b) (7)(C) hours in retaliation for (filling a grievance regarding a schedule change that resulted in a promotion outside of the bidding process.

3. Full name of party filing charge (if labor organization, given (b) (6), (b) (7)(C)	e full name, including local name and num	ber)
4a Address (street and number, city, state, and ZIP code)		4b Tel No (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)		4c Cell No. (b) (6), (b) (7)(C)
		4d, Fax No. (b) (6), (b) (7)(C)
		<sup>4a</sup> (b) (6), (b) (7)(C)
5. Full name of national or international labor organization of	of which it is an affiliate or constituent unit (	to be filled in when charge is filed by a labor
organization)		
O PEOLABATION		Tel No.
	the statements are true to the best of	(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)		Office, if any, Cell No.
	(b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)
(s aking charge)	Print Name and Title	F(b) (6), (b) (7)(C)
Address: (b) (6), (b) (7)(C)	Date: 7/5/17	e-Mail (b) (6), (b) (7)(C)

WILLPUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et req. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully act forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the

NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.

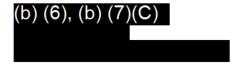


## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD



REGION 1 Agency Website: www.nlrb.gov 10 Causeway St FI 6 Telephone: (617) 565-6700 Boston, MA 02222-1001 Fax: (617) 565-6725 Download NLRB Mobile App

July 11, 2017



Re: HARVARD UNIVERSITY DINING

SERVICES

Case 01-CA-197219

 $_{
m Dear}$  (b) (6), (b) (7)(C)

We have docketed the first amended charge that you filed in this case.

<u>Investigator</u>: This charge is being investigated by Field Attorney LUCY E. REYES whose telephone number is (857) 317-7800. If the agent is not available, you may contact Supervisory Attorney LAURA A. SACKS whose telephone number is (857) 317-7802.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. If you have additional evidence regarding the allegations in the first amended charge and you have not yet scheduled a date and time for the Board agent to obtain that evidence, please contact the Board agent to arrange to present that evidence. If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed.

<u>Procedures</u>: Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

JOHN J. WALSH, JR. Regional Director

JJW/rg



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD



REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617) 565-6700 Fax: (617) 565-6725 Download NLRB Mobile App

July 11, 2017

DAVID DAVIDSON, MANAGING DIRECTOR HARVARD UNIVERSITY DINING SERVICES 124 MT. AUBURN ST. CAMBRIDGE, MA 02138

Re: HARVARD UNIVERSITY DINING

**SERVICES** 

Case 01-CA-197219

Dear Mr. DAVIDSON:

Enclosed is a copy of the first amended charge that has been filed in this case.

<u>Investigator</u>: This charge is being investigated by Field Attorney LUCY E. REYES whose telephone number is (857) 317-7800. If the agent is not available, you may contact Supervisory Attorney LAURA A. SACKS whose telephone number is (857) 317-7802.

<u>Presentation of Your Evidence</u>: As you know, we seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations in the first amended charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

<u>Procedures:</u> Your right to representation, the means of presenting evidence, and a description of our procedures, including how to submit documents, was described in the letter sent to you with the original charge in this matter. If you have any questions, please contact the Board agent.

Very truly yours,

JOHN J. WALSH, JR. Regional Director

JJW/rg

Enclosure: Copy of first amended charge

Case 01-CA-197219

cc: ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY

HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL

1350 MASSACHUSETTS AVE STE 980 SMITH CAMPUS CENTER, SUITE 980

CAMBRIDGE, MA 02138-3846

PAUL R. CURRAN, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY 124 MOUNT AUBURN ST SUITE 480 SOUTH CAMBRIDGE, MA 02138-5813

MICHAEL KRAMER, ORGANIZER UNITE HERE LOCAL 26 33 HARRISON AVENUE, 4<sup>TH</sup> FLOOR BOSTON, MA 02111

### **UNITED STATES OF AMERICA**

### BEFORE THE NATIONAL LABOR RELATIONS BOARD

### HARVARD UNIVERSITY DINING SERVICES

**Charged Party** 

and

Case 01-CA-197219

### (b) (6), (b) (7)(C)

**Charging Party** 

### AFFIDAVIT OF SERVICE OF FIRST AMENDED CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 11, 2017, I served the above-entitled document(s) by regular mail upon the following persons, addressed to them at the following addresses:

DAVID DAVIDSON, MANAGING DIRECTOR HARVARD UNIVERSITY DINING SERVICES 124 MT. AUBURN ST. CAMBRIDGE, MA 02138

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 SMITH CAMPUS CENTER, SUITE 980 CAMBRIDGE, MA 02138-3846

PAUL R. CURRAN. DIRECTOR OF LABOR AN DEMPLOYEE RELATIONS HARVARD UNIVERSITY 124 MOUNT AUBURN STREET **SUITE 480 SOUTH** CAMBRIDGE, MA 02138-583

MICHAEL KRAMER, ORGANIZER **UNITE HERE LOCAL 26** 33 HARRISON AVENUE, 4<sup>TH</sup> FLOOR BOSTON, MA 02111

July 11, 2017	Robert Gaffney, Designated Agent of NLRB	
Date	Name	

/s/ Robert G	affney
--------------	--------

Signature



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

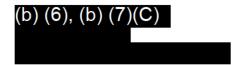
REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617)565-6700

Fax: (617)565-6725

July 17, 2017

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 SMITH CAMPUS CENTER, SUITE 980 CAMBRIDGE, MA 02138-3846

PAUL R. CURRAN, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY 124 MOUNT AUBURN ST SUITE 480 SOUTH CAMBRIDGE, MA 02138-5813



Re: Harvard University Dining Services Case 01-CA-197219

Dear Ms. Seaman, Mr. Curran, and (b) (6), (b) (7)(C)

The Region has carefully considered the charge alleging that Harvard University Dining Services violated the National Labor Relations Act. As explained below, I have decided that further proceedings on the charge should be handled in accordance with the deferral policy of the National Labor Relations Board as set forth in *Collyer Insulated Wire*, 192 NLRB 837 (1971), and *United Technologies Corp.*, 268 NLRB 557 (1984). This letter explains that deferral policy, the reasons for my decision to defer further processing of the charge, and the Charging Party's right to appeal my decision.

**Deferral Policy**: The Board's deferral policy provides that the Board will postpone making a final determination on a charge when a grievance involving the same issue can be processed under the grievance/arbitration provision of the applicable contract. This policy is partially based on the preference that the parties use their contractual grievance procedure to achieve a prompt, fair, and effective settlement of their disputes. Therefore, if an employer agrees to waive contractual time limits and process the related grievance through arbitration if necessary, the Board's Regional Office will defer the charge.

**Decision to Defer**: Based on our investigation, I am deferring further proceedings on the charge in this matter to the grievance/arbitration process for the following reasons:

- 1. The Employer and UNITE HERE INTERNATIONAL UNION LOCAL 26 have a collective-bargaining agreement currently in effect that provides for final and binding arbitration.
- 2. The retaliatory change of (b) (6), (b) (7)(C) hours for filing a grievance, as generally alleged in the charge, is encompassed by the terms of the collective-bargaining agreement.
- 3. The Employer is willing to process a grievance concerning the issues in the charge, and will arbitrate the grievance if necessary. The Employer has also agreed to waive any time limitations in order to ensure that the arbitrator addresses the merits of the dispute.
- 4. Since the issues in the charge appear to be covered by provisions of the collective-bargaining agreement, it is likely that the issues may be resolved through the grievance/arbitration procedure.

**Further Processing of the Charge**: As explained below, while the charge is deferred, the Regional office will monitor the processing of the grievance and, under certain circumstances, will resume processing of the charge.

Charging Party's Obligation: Under the Board's Collyer deferral policy, the Charging Party has an affirmative obligation to file a grievance, if a grievance has not already been filed. If the Charging Party fails either to promptly submit the grievance to the grievance/arbitration process or declines to have the grievance arbitrated if it is not resolved, I may dismiss the charge.

*Union/Employer Conduct*: If the Union or Employer fails to promptly process the grievance under the grievance/arbitration process; declines to arbitrate the grievance if it is not resolved; or if a conflict develops between the interests of the Union and the Charging Party, I may revoke deferral and resume processing of the charge.

Charged Party's Conduct: If the Charged Party prevents or impedes resolution of the grievance, raises a defense that the grievance is untimely filed, or refuses to arbitrate the grievance, I will revoke deferral and resume processing of the charge.

Monitoring the Dispute: Approximately every 90 days, the Regional Office will ask the parties about the status of this dispute to determine if the dispute has been resolved and if continued deferral is appropriate. However, at any time, a party may present evidence and request dismissal of the charge, continued deferral of the charge, or issuance of a complaint.

*Notice to Arbitrator Form*: If the grievance is submitted to an arbitrator, please sign and submit to the arbitrator the enclosed "Notice to Arbitrator" form to ensure that the Region receives a copy of an arbitration award when the arbitrator sends the award to the parties.

Review of Arbitrator's Award: If the grievance is arbitrated, the Charging Party may ask the Board to review the arbitrator's award. The request must be in writing and addressed to me. Because the parties have explicitly authorized the arbitrator to decide the statutory issue in this case, the Board's deferral standards applicable in this case are those set forth in Babcock & Wilcox Construction Co., 361 NLRB No. 132 (2014), which is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>. Any request for review of an arbitrator's award should analyze (1) whether the parties explicitly authorized the arbitrator to decide the statutory issue; (2) whether the arbitrator was presented with and considered the statutory issue, or was prevented from doing so by the party opposing deferral; and (3) whether Board law reasonably permits the award. The party urging deferral has the burden to prove these standards are met.

Review of Grievance Settlement: If the grievance is settled, the Charging Party may ask the Board to review the grievance settlement. The Board's deferral standards applicable to any grievance settlement in this case are also set forth in Babcock & Wilcox Construction Co., 361 NLRB No. 132 (2014). Any request for review of a grievance settlement should analyze (1) whether the parties intended to settle the unfair labor practice issue; (2) whether the parties addressed the statutory issue in the settlement; and (3) whether Board law reasonably permits the grievance settlement agreement. The party urging deferral has the burden to prove these standards are met. In assessing whether to defer to the settlement, I will also consider the factors identified by the Board in Independent Stave Co., 287 NLRB 740, 743 (1987).

**Charging Party's Right to Appeal**: The Charging Party may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

*Means of Filing:* An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlrb.gov and:

- 1) Click on E-File documents:
- 2) Enter your NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at <a href="www.nlrb.gov">www.nlrb.gov</a>. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel** at the **National Labor Relations Board**, **Attn: Office of Appeals**, **1015 Half Street SE**, **Washington**, **DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on July 31, 2017. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service **no later than July 30, 2017**. If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely. If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before July 31, 2017**. The request may be filed electronically through the **E-File Documents** link on our website <a href="https://www.nlrb.gov">www.nlrb.gov</a>, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after July 31, 2017, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,

JOHN J. WALSH, JR. Regional Director

Sp. Mallf.

JJW:cds

### Enclosures

cc: DAVID DAVIDSON, MANAGING DIRECTOR HARVARD UNIVERSITY DINING SERVICES 124 MT. AUBURN ST. CAMBRIDGE, MA 02138-

> MICHAEL KRAMER, ORGANIZER UNITE HERE LOCAL 26 33 HARRISON AVENUE, 4TH FLOOR BOSTON, MA 02111

# UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD NOTICE TO ARBITRATOR

TO:		
	(Arbitrator)	
	(Address)	
		NLRB Case Number 01-CA-197219
NLR	B Case Name: Harvard Univers	ty Dining Services
NLRB proceed the unconstitution Region	Relations Board to administrative charge in the above matter. Furthed to arbitration before you in order So that the Regional Director cardersigned hereby requests that a content of the second conte	y the Regional Director of Region 01 of the National y defer to arbitration the further processing of the er, both parties to the NLRB case have agreed to to resolve the dispute underlying the NLRB charge. be promptly informed of the status of the arbitration, py of the arbitration award be sent to Regional Director, MA 02222-1001 at the same time that it is sent to the
		(Name)
		(Title)

## UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

### APPEAL FORM

To: General Counsel Attn: Office of Appeals National Labor Relations Board 1015 Half Street SE Washington, DC 20570-0001	Date:
I am appealing the action of the Rec	gional Director in deferring the charge in
Case Name(s).	
Case No(s). (If more than one case numbe taken.)	r, include all case numbers in which appeal is
	(Signature)

INTERNET

UNITED STATES OF AMERICA

FORM EXEMPT	UNDER 44	U.S.C 3512
·		01010 0012

FORM NLRB-501	NATIONAL LABOR RELATIONS BO	ARD .	וטא טט	WIGHE IN THIS SPACE
(2-08)	CHARGE AGAINST EMPLOY		Case	Date Filed
INSTRUCTIONS:			01-CA-207761	10/11/2017
File an original with NLRB	Regional Director for the region in which the			lng.
a. Name of Employer	1, EMPLOYER A	GAINST WHOM CHA	RGE IS BROUGHT	h Tol No
Harvard University	Dining Services			b. Tel. No. 6174954812
1				c. Cell No.
				f. Fax No.
d Address (Street, city 65 Winthrop St	, state, and ZIP code)	e Employer Represer David Davidson	ntative	g. e-Mail
Cambridge Ma 021	138			david_davidson@harvard.edu
		•		h. Number of workers employed
i. Type of Establishmer Dining services	nt (factory, mine, Wholesaler, etc.)	j. Identify principal pro FOOD AND BEVE		
	nployer has engaged in and is engaging i			tion 8(s), subsections (1) and (list
subsections)		, amai 1220 p.00	_	
practices are practice	es affecting commerce within the meaning If the Act and the Postal Reorganization A			or Relations Act, and these unfair labor of air practices affecting commerce
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4a. Address (Street and (b) (6), (b) (7)(0	number, city, state, and ZIP code)			4b. Tel. No. (b) (6), (b) (7)(C)
(5) (5), (5) (1)(6				4c. Cell No.
	_			4d. Fax No.
,				4e. e-Mall
	l or international labor organization of while to cal 26	ch It is an affiliate or cor	nstituent unit (to be filled	(b) (6), (b) (7)(C) in when charge is filed by a labor
declare that   have read	6. DECLARATION	re true to the best of my k	nowledge and belief,	Tel. No.
(b) (6), (	$\overline{b}) (7)(\overline{C})$	), (b) (7)(C)		Office, if any, Cell No.
H		rinklype neme and title or o	office, if any)	Fax No.
			-	e-Mall
			10/9/17	G-Mail
Address			(date)	}

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001) PRIVACY ACT STATEMENT

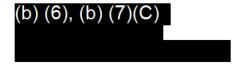
Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 of seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or Vilgation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information will cause the NLRB to decline to invoke its processes.



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 1 Agency Website: www.nlrb.gov 10 Causeway St FI 6 Telephone: (617) 565-6700 Boston, MA 02222-1001 Fax: (617) 565-6725 Download NLRB Mobile App

October 12, 2017



Re: HARVARD UNIVERSITY DINING

SERVICES

Case 01-CA-207761

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on October 11, 2017 has been docketed as case number 01-CA-207761. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Attorney MIRIAM HASBUN whose telephone number is (857) 317-7939. If this Board agent is not available, you may contact Supervisory Attorney LAURA A. SACKS whose telephone number is (857) 317-7802.

<u>Right to Representation</u>: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Case 01-CA-207761

**Procedures:** We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website <a href="www.nlrb.gov">www.nlrb.gov</a>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website <a href="www.nlrb.gov">www.nlrb.gov</a> or from the Regional Office upon your request. NLRB Form 4541, Investigative Procedures offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JOHN J. WALSH, JR.

Regional Director

JJW/rg



## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD



REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001 Agency Website: www.nlrb.gov Telephone: (617) 565-6700 Fax: (617) 565-6725

Download NLRB Mobile App

October 12, 2017

DAVID DAVIDSON HARVARD UNIVERSITY DINING SERVICES 65 WINTHROP STREET CAMBRIDGE, MA 02138-5907

Re: HARVARD UNIVERSITY DINING

**SERVICES** 

Case 01-CA-207761

Dear Mr. Davidson:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Attorney MIRIAM HASBUN whose telephone number is (857) 317-7939. If this Board agent is not available, you may contact Supervisory Attorney LAURA A. SACKS whose telephone number is (857) 317-7802.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you Case 01-CA-207761

recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, <u>www.nlrb.gov</u>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

JOHN J. WALSH, JR. Regional Director

JJW/rg

**Enclosures:** 

- 1. Copy of Charge
- 2. Commerce Questionnaire

cc: ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY
HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL
SMITH CAMPUS CENTER, SUITE 980
1350 MASSACHUSETTS AVENUE
CAMBRIDGE, MA 02138-3846

PAUL R. CURRAN, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY 124 MOUNT AUBURN STREET, SUITE 480 SOUTH CAMBRIDGE, MA 02138-5813

Revised 3/21/2011	NATIONAL LABOR RELA	TIONS BOARD			
QUESTIONNAIRE ON COMMERCE INFORMATION					
Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.					
CASE NAME			CASE NUMBER		
1 PVACTICAL TITLE OF ENTITY	A 51 1 14 54 4 11 1 1	1 (6 )	01-CA-207761		_
1. EXACT LEGAL TITLE OF ENTITY (	As filed with State and/or stated in legal	documents forming entity)			
2. TYPE OF ENTITY					
[] CORPORATION [] LLC [] L	LP [ ] PARTNERSHIP [ ] SOL	E PROPRIETORSHIP [ ] OTHE	R (Specify)		
3. IF A CORPORATION or LLC A STATE OF INCORPORATION	B. NAME, ADDRESS, AND RELATION	NCUID (o a pasent subsidiage) OF A	I I DELATED ENTITIES		
OR FORMATION	B. NAME, ADDRESS, AND RELATIO	NSTIF (e.g. parent, subsidiary) OF A	LL RELATED ENTITIES		
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	OF VIOLEN OPEN ATTIONS OF THE				_
6. BRIEFLY DESCRIBE THE NATURE	OF YOUR OPERATIONS (Products he	andled or manufactured, or nature of a	services performed).		
7. A. PRINCIPAL LOCATION:	B. BRANCH LO	CATIONS:			
8. NUMBER OF PEOPLE PRESENTLY	EMPLOYED				
A. Total:	B. At the address involved in this r				
9. DURING THE MOST RECENT (Check	k appropriate box): [ ] CALENDAR Y	R [] 12 MONTHS or [] FISC.	AL YR (FY dates	· · · · · · · · · · · · · · · · · · ·	)
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\$	•				
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\$ C. If you answered no to 9A and 9B, did	you provide services valued in exce	ss of \$50,000 to public utilities tr	ansit systems		
		ildings, educational institutions, o			
newspapers, health care institutions,					
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

### UNITED STATES OF AMERICA

### BEFORE THE NATIONAL LABOR RELATIONS BOARD

HARVARD UNIVERSITY DINING SEI	RVI	CES
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Charged Party

and

Case 01-CA-207761

(b) (6), (b) (7)(C)

**Charging Party** 

### AFFIDAVIT OF SERVICE OF CHARGE AGAINST EMPLOYER

I, the undersigned employee of the National Labor Relations Board, state under oath that on October 12, 2017, I served the above-entitled document(s) by post-paid regular mail upon the following persons, addressed to them at the following addresses:

DAVID DAVIDSON HARVARD UNIVERSITY DINING SERVICES 65 WINTHROP STREET CAMBRIDGE, MA 02138-5907

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL SMITH CAMPUS CENTER, SUITE 980 1350 MASSACHUSETTS AVENUE CAMBRIDGE, MA 02138-3846

PAUL R. CURRAN, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY 124 MOUNT AUBURN STREET, SUITE 480 SOUTH CAMBRIDGE, MA 02138-5813

October 12, 2017	Robert Gaffney, Designated Agent of NLRB
Date	Name
	/S/ Robert Gaffney Signature

### NATIONAL LABOR RELATIONS BOARD

### NOTICE OF APPEARANCE

Harvard University	
and (b) (6), (b) (7)(C)	CASE 01-CA-207761
EXECUTIVE SECRETARY NATIONAL LABOR RELATIONS BOARD Washington, DC 20570	GENERAL COUNSEL  NATIONAL LABOR RELATIONS BOARD  Washington, DC 20570
THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATION OF THE CONTROL OF THE	IVE OF
IN THE ABOVE-CAPTIONED MATTER.	<u> </u>
CHECK THE APPROPRIATE BOX(ES) BELOW:  REPRESENTATIVE IS AN ATTORNEY  IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE TO CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WE DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENT CASEHANDLING MANUAL.	ADDITION TO THOSE DESCRIBED BELOW, THIS VILL RECEIVE ONLY COPIES OF CERTAIN
(REPRESENTATIVE INFORM	MATION)
NAME: Elizabeth P. Seaman	
MAILING ADDRESS: Harvard University, Office of the General Co	ounsel, 1350 Massachusetts Avenue, nter, Suite 980, Cambridge, MA 02138
E-MAIL ADDRESS: elizabeth_seaman@harvard.edu	
OFFICE TELEPHONE NUMBER: 617-496-2791	
CELL PHONE NUMBER: 617-251-5629	<sub>FAX:</sub> 617-495-5079
SIGNATURE: (Please sign in ink) October 20, 2017	

 $<sup>^{</sup>m I}$  IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.



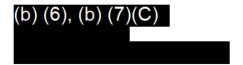
## UNITED STATES GOVERNMENT NATIONAL LABOR RELATIONS BOARD

REGION 1 10 Causeway St FI 6 Boston, MA 02222-1001

Agency Website: www.nlrb.gov Telephone: (617)565-6700

Fax: (617)565-6725

December 26, 2017



Re: HARVARD UNIVERSITY DINING

SERVICES

Case 01-CA-207761

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that HARVARD UNIVERSITY DINING SERVICES has violated the National Labor Relations Act.

**Decision to Dismiss:** Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

The investigation disclosed insufficient evidence to establish that the Employer, through (b) (6), (b) (7)(C) , interfered with, restrained, or coerced employees in violation of the Act. Rather, the investigation disclosed that asked employees at a pre-meal meeting why they felt overworked, and then stated that if employees stopped calling out and arriving late they would not be overworked. The investigation failed to reveal evidence of threats of reprisal at that meeting. Furthermore, no evidence suggests that any employee questioned by disciplined or threatened during or after the exchange. I am, therefore, refusing to issue complaint in this matter.

**Your Right to Appeal:** You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

**Means of Filing**: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at <a href="https://www.nlrb.gov">www.nlrb.gov</a> and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at <a href="www.nlrb.gov">www.nlrb.gov</a>. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on January 9, 2018. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service **no later than January 8, 2018**. If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely. If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

**Extension of Time to File Appeal:** The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before January 9, 2018.** The request may be filed electronically through the *E-File Documents* link on our website <a href="www.nlrb.gov">www.nlrb.gov</a>, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received **after January 9, 2018, even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

### HARVARD UNIVERSITY DINING SERVICES Case 01-CA-207761

- 3 - December 26, 2017

Very truly yours,

Elizabeth A. Gemperline Acting Regional Director

Elj beth A. Gemperline

EAG:cds

**Enclosure** 

cc: DAVID DAVIDSON
HARVARD UNIVERSITY DINING SERVICES
65 WINTHROP ST
CAMBRIDGE, MA 02138-5907

ELIZABETH P. SEAMAN, UNIVERSITY ATTORNEY HARVARD UNIVERSITY - OFFICE OF THE GENERAL COUNSEL 1350 MASSACHUSETTS AVE STE 980 SMITH CAMPUS CENTER, SUITE 980 CAMBRIDGE, MA 02138-3846

PAUL R. CURRAN, DIRECTOR OF LABOR AND EMPLOYEE RELATIONS HARVARD UNIVERSITY 124 MOUNT AUBURN ST SUITE 480 SOUTH CAMBRIDGE, MA 02138-5813

## UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD

### APPEAL FORM

Date:

To: General Counsel

Attn: Office of Appeals National Labor Relations Board 1015 Half Street SE Washington, DC 20570-0001	
Please be advised that an appeal is her National Labor Relations Board from the action issue a complaint on the charge in	reby taken to the General Counsel of the n of the Regional Director in refusing to
Case Name(s).	
Case No(s). (If more than one case number, inc taken.)	lude all case numbers in which appeal is
	(Signature)

SAN ANTONIO RO REGION 16

210 472 6143 P.27/27 FORM EXEMPT UNDER 44 U.S.C 3512

(NTERNET FORM NLRB-501 (2-06) UNITED STATES OF AMERICA NATIONAL LABOR RELATIONS BOARD CHARGE AGAINST EMPLOYER

	DO NOT WRITE	IN THIS SPACE
Case		Date Filed

INSTRUCTIONS:

NSTRUCTIONS: The an original with NLRB Regional Director for the region in which t	ha alleged unfair labor practice occurred or le occurr	ing.
	GAINST WHOM CHARGE IS BROUGHT	
a. Name of Employer Harvard University		b. Tel. No. (6/7) 4496 _ 23/6 c. Cell No.
		f. Fax No.
d. Address (Street, city, state, and ZIP code) 124 Mount Auburn	e. Employer Representative  HR Directors	g. <del>p-Mali</del>
Cambridge, MA 02/38	various department	5 h. Number of workers employed
i. Type of Establishment (factory, mine, wholesaler, etc.)  CAUCATION	j. Identify principal product or service  Various, deport	
k. The above-named employer has engaged in and is engaging subsections) SOC FIDNO 7 and	-/ 07 · /97	ction 8(e), subsections (1) and (list
practices are practices affecting commerce within the meaning within the meaning of the Act and the Postal Reorganization		rfeir practices affecting commerce
2. Basis of the Charge (set forth a clear and concise statement	of the facts constituting the alleged unfair labor pr	racicas)
The purpose FOR a	this Charge is V, as a result c	to report
From internews and	I employment	From the
employer above.	orientation, sex	, veteran's.
Race, gender, sexual status, union affilian with the employmen	tion age are Fa	ctors associated Color and disab
(b) (6), (b) (7)(C)	I name, including local name and number)	(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)	(b) (6). (b) (7)(C)	4b. Tel. No (b) (6), (b) (7)(C) 4c. Cell V(b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
		Ad. Fax No.
5. Full name of national or International labor organization of with organization)	nich it is an effiliate or constituent unit (to be filled	in when charge is filed by a labor
6. DECLARATION	The trace to the heart of one browledge and helief	Tel. No. (b) (6), (b) (7)(C
(b) (b), (b) (7)(C)	(b) (6), (b) (7)(C	) (6) (b) (7)(C)
(b) (6), (b) (7)(C)	intituce curve and little or affice, if empl $08/03/$	Fax No.
Addr	2011 (deta)	a-Mail

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary, however, failure to supply the information will cause the NLRB to decline to invoke its processes.

NATIONAL LABOR RE REGION 16 819 TAYLOR ST RM 8A24 FORT WORTH, TX 76102-6107

Agency Website: <a href="https://www.nlrb.gov">www.nlrb.gov</a>
Telephone: (817)978-2921
Fax: (817)978-2928

September 9, 2011

WILLIAM MURPHY HARVARD UNIVERSITY 124 MOUNT AUBURN ST CAMBRIDGE, MA 02138-5813

> Re: Harvard University Case 16-CA-064215

### DEAR MR. MURPHY:

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge is being investigated by Resident Officer STEVE E. MARTINEZ whose telephone number is (210)472-6144. The mailing address is 615 E HOUSTON ST STE 559, SAN ANTONIO, TX 78205-2039. If STEVE E. MARTINEZ is not available, you may contact Assistant to the Regional Director OFELIA GONZALEZ whose telephone number is (817) 978-2939.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlrb.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent.

Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

In addition, either you or your representative must complete the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our website, <u>www.nlrb.gov</u>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, <a href="www.nlrb.gov">www.nlrb.gov</a> or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

MARTHA KINARD Regional Director

### Enclosures:

- 1. Copy of Charge
- 2. Commerce Questionnaire

Parriand 2/21/2011	NATIONAL LABOR DEL	ATIONS DOADD		
Revised 3/21/2011 NATIONAL LABOR RELATIONS BOARD				
QUESTIONNAIRE ON COMMERCE INFORMATION				
Please read carefully, answer all applicable ite	ms, and return to the NLRB Office. If additi	onal space is required, please add a pag		
CASE NAME Harvard University			CASE NUMBER 16-CA-064215	
1. EXACT LEGAL TITLE OF ENTITY (	As filed with State and/ou stated in lega	I documents forming entity)	10-CA-004213	
1. EXACT LEGAL TITLE OF ENTITY	As med with State and/or stated in lega	i documents forming entity)		
2. TYPE OF ENTITY				
[] CORPORATION [] LLC [] L	LP [ ] PARTNERSHIP [ ] SOI	E PROPRIETORSHIP [ ] OTHE	R (Specify)	
3. IF A CORPORATION or LLC				
A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATION	ONSHIP (e.g. parent, subsidiary) OF A	LL RELATED ENTITIES	
OR FORMATION				
4. IF AN LLC OR ANY TYPE OF PART	NERSHIP, FULL NAME AND ADDR	ESS OF ALL MEMBERS OR PART	NERS	
5. IF A SOLE PROPRIETORSHIP, FUL	L NAME AND ADDRESS OF PROPR	IETOR		
6. BRIEFLY DESCRIBE THE NATURE	OF YOUR OPERATIONS (Products h	andled or manufactured, or nature of s	ervices performed).	
	· ·	, , , , , , , , , , , , , , , , , , ,	1 0 /	
7. A. PRINCIPAL LOCATION:	B. BRANCH LO	OCATIONS:		
8. NUMBER OF PEOPLE PRESENTLY	EMPLOYED			
A. Total:	B. At the address involved in this	matter:		
9. DURING THE MOST RECENT (Chec	ck appropriate box): [ ] CALENDAR Y	R [] 12 MONTHS or [] FISCA	AL YR (FY dates	)
A Did			YES	NO
A. Did you <b>provide</b> services valued in a	excess of \$50,000 directly to custome	ers outside your State? If no, indica		NO
\$	•	•	nte actual value.	NO
\$  B. If you answered no to 9A, did you p	•	50,000 to customers in your State	ate actual value.  who purchased goods	NO
B. If you answered no to 9A, did you p valued in excess of \$50,000 from dir	rovide services valued in excess of \$ rectly outside your State? If no, indicate	50,000 to customers in your State value of any such service	who purchased goods es you provided.	NO
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PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

## UNITED STATES OF AMERICA BEFORE THE NATIONAL LABOR RELATIONS BOARD

HARVARD UNIVERSITY  Charged Party  and  (b) (6), (b) (7)(C)	Case 16-CA-064215
Charging Party	
I, the undersigned employee of the National Labor Rela September 9, 2011, I served the above-entitled docume following persons, addressed to them at the following a	ations Board, state under oath that on nt(s) by post-paid regular mail upon the
WILLIAM MURPHY HARVARD UNIVERSITY 124 MOUNT AUBURN ST CAMBRIDGE, MA 02138-5813	
September 9, 2011  Date	ynthia Davis, Designated Agent of NLRB Name

Signature

NATIONAL LABOR RE REGION 16 819 TAYLOR ST RM 8A24 FORT WORTH, TX 76102-6107

Agency Website: <u>www.nlrb.gov</u> Telephone: (817)978-2921 Fax: (817)978-2928

September 9, 2011

(b) (6), (b) (7)(C)

Re: Harvard University Case 16-CA-064215

DEAR (b) (6), (b) (7)(C)

The charge that you filed in this case on September 7, 2011 has been docketed as case number 16-CA-064215. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

<u>Investigator</u>: This charge will be investigated by Resident Officer STEVE E. MARTINEZ whose telephone number is (210) 472-6144. The mailing address is 615 E HOUSTON ST STE 559, SAN ANTONIO, TX 78205-2039. If the Board agent is not available, you may contact Assistant to the Regional Director OFELIA GONZALEZ whose telephone number is (817) 978-2939.

**Right to Representation:** You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701*, *Notice of Appearance*. This form is available on our Website, <a href="www.nlrb.gov">www.nlrb.gov</a>, or at the Regional office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

<u>Presentation of Your Evidence</u>: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

<u>Procedures:</u> We strongly urge everyone to submit all documents and other materials (except unfair labor practice charges and representation petitions) by E-Filing (not e-mailing) through our Website: <a href="www.nlrb.gov">www.nlrb.gov</a>. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our Website, www.nlrb.gov or from the Regional Office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

MARTHA KINARD Regional Director Marilyn G. Schriever Legal Services Manager m\_schriever@harvard.edu Holyoke Center 980 1350 Massachusetts Avenue Cambridge, Massachusetts 02138-3834 t.617.495.9699 f.617.495.5079

September 23, 2011

Steve E. Martinez, Resident Officer National Labor Relations Board, Region 16 615 E. Houston St., Suite 559 San Antonio, TX 78205

Re: Harvard University

Case 16-CA-064215

Dear Mr. Martinez:

Please enter my appearance in the above referenced case on behalf of Harvard University. As requested, I am enclosing the completed Questionnaire on Commerce Information.

Harvard will submit its position statement to you shortly. In the meantime, please contact me at (617) 495-9699 or by email at marilyn\_schriever@harvard.edu if you have questions.

Very truly yours,

Marilyn G. Schriever Legal Services Manager

Enclosure

REGION 16 819 TAYLOR ST RM 8A24 FORT WORTH, TX 76102-6107

Agency Website: <a href="https://www.nlrb.gov">www.nlrb.gov</a> Telephone: (817)978-2921 Fax: (817)978-2928

October 20, 2011

MARILYN SCHRIEVER LEGAL SERVICES MGR. HARVARD UNIVERSITY HOLYOKE CENTER, ROOM 980 1350 MASSACHUSETTS AVENUE CAMBRIDGE, MA 02138

Re: Harvard University

Case 16-CA-064215

### DEAR MS. SCHRIEVER:

This is to advise you that I have approved the withdrawal of the charge in the above matter.

Very truly yours,

MARTHA KINARD Regional Director

cc: WILLIAM MURPHY
HARVARD UNIVERSITY
124 MOUNT AUBURN ST
CAMBRIDGE, MA 02138-5813

(b) (6), (b) (7)(C)